

From: Engels, Alan

To: pzalzal@edf.org

Cc: Rivera, Adrienne

Subject: FOIA Request EPA-R8-2019-001669 - Suspense for response February 22, 2019

Date: Monday, February 11, 2019 3:27:00 PM

Dear Mr. Zalzal,

Please accept my apology for not sending this email sooner. I wanted to send a summary of our

conversation last week.

I will provide comments in red to each of the areas directly relating to the request and then provide

additional information below it. This will provide you with a better understanding of where we are

and what can be expected. Comments regarding each portion are made at the end of each section in

red.

The FOIA Request Reads:

(1) Copies of all reports submitted to EPA pursuant to Subpart 0000a's reporting requirements

including, but not limited to, the following reports:

Results of the Performance Test, as required by 40 C.F.R. § 60.5420a(b) (9) (i); Semiannual Reports,

as required by 40 C.F.R. § 60.5422a(a); 1 Annual Reports, as required by 40 C.F.R. § 60.5420a(b); and

Annual Reports of Excess Emissions for Sweetening Units, as required by 40 C.F.R. § 60.5423a(b).

Are you seeking from all EPA Offices or Only EPA Region 8? If documents submitted by operators

contain an assertion of CBI, are you interested in moving forward with the CBI Determination

process once the responsive documents that can be released are complete. It is important that you

understand this process can take up to 2 years, is separate from the FOIA Request itself, and all costs

associated with this process will be charged to you. When indicating how you would like to proceed

with the CBI Determination, it is important that you acknowledge the costs associated with the

process.

(2) Copies of all internal correspondence and all correspondence between EPA and outside parties

containing reference to the new source performance standards for the oil and gas sector, Subpart

0000a, or any of the specific reports or regulatory provisions listed above in paragraph (1) of this

request; and containing one or more of the following terms:

- "comply," including any inflection thereof (e.g., "complies," "complying," "compliant," or "compliance");
- "deadline" or "deadlines";
- "delay," including any inflection thereof (e.g., "delays," "delayed," or "delaying");
- "due";
- "enforce," including any inflection thereof (e.g., "enforces," "enforcing," or "enforcement");
- "extend," including any inflection thereof (e.g., "extends," "extending," "extension," or "extensions");
- "postpone," including any inflection thereof (e.g., "postpones," "postponed," "postponing," or "postponement"); or
- "variance" or "variances."

Is the search for email records limited to Region 8 or for all EPA Offices? Once we are able to

determine the scope, we will begin to gather information on who in these offices might have

responsive documents.

The use of common terms as provided will produce a large volume of documents that would not be

responsive to your request. In order for us to begin gathering these emails, EPA needs to verify the

date range for the emails to be collected, discuss with you a revised method of search terms that

would provide us a better universe of collected documents. If no such modification is received, EPA

would respond that the search is too broad for us to locate documents responsive to your request.

On November 1, 2017, EDF submitted a separate FOIA request seeking EPA records that relate to

OOOa reporting and correspondence. The November 2017 request, which EPA docketed as number EPA-HQ-2017-001268, covered records produced, modified, or transmitted since January

20, 2017. The scope of the November 2017 request was narrowed on January 31, 2018 and the

instant request may be similarly limited by: excluding any reports required by 40 C.F.R. §

60.5423a(b) if no reports have been submitted pursuant to this regulation; excluding reports of

Performance Tests conducted by the manufacturer and reported.

Our office sees that your request for Fee Waiver has been denied. We cannot proceed until fee limit

has been increased or the fee waiver denial issue is resolved. EPA cannot complete processing of

this request without it. As discussed the overall costs to search and review for documents from all

EPA Offices (excluding CBI Determination) is expected to be between \$5,000 and \$10,000 to

complete and will likely take more than 9 months to complete our response.

If you wish to have the fee waiver reconsidered, please send me an email with additional

information in PDF format, on letterhead, with your request to have it reconsidered with any

additional information. I will then submit it to our HQ office for reconsideration.

Once we have a better understanding of the overall request, we would like to discuss and obtain

your approval on a timeline for our response. This will provide EPA staff with a better understanding

of what will be produced for each portion of the response and when we have agreed to provide you

this information.

If we do not hear from you on how you would like to proceed by February 22, 2019, we will close

out the request for non-response to our request to increase the fee limit. If you need additional

time to respond, you must request the additional time before we begin the closeout process.

If you would like to withdraw the current request to allow time to work with us to prepare a more

targeted request, please reply to this email and indicate that you wish to WITHDRAW this request.

If you have any questions, please feel free to contact me at 303-312-6306 or replying to this email.

Once again, please accept my apology for not getting this out sooner. Our offices have been very

busy responding to inquiries and processing requests since our office re-opened from the recent

lapse of federal funding between December 28, 2018 and January 25, 2019.

Alan Engels

Regional FOIA Officer

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